

Mr. REID. Mr. President, I suggest the absence of a quorum and ask unanimous consent that the time be charged equally.

The ACTING PRESIDENT pro tempore. Without objection, it is so ordered.

The clerk will call the roll.

The assistant legislative clerk proceeded to call the roll.

Mr. GRASSLEY. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The ACTING PRESIDENT pro tempore. Without objection, it is so ordered.

Mr. GRASSLEY. Mr. President, we are in morning business, so I yield myself such time as I may consume.

The ACTING PRESIDENT pro tempore. The Senator, under the order, has up to 10 minutes.

#### PRESCRIPTION DRUG COVERAGE

Mr. GRASSLEY. Mr. President, for the third time in as many weeks, Senator GRAHAM and some of his Democrat colleagues have announced a mostly partisan Medicare prescription drug plan.

When it comes to prescription drug plans, it seems like Senator GRAHAM and his friends have tried everything.

They tried sunsets. They tried fixed copayments. They even tried limiting coverage for many brand name drugs seniors rely on. They tried spending \$800 billion. They tried spending \$600 billion. Each time they tried, they failed.

Today, to the tune of \$400 billion, they're trying something else entirely.

Despite their earlier calls for a universal, comprehensive benefit, Senator GRAHAM and his Democrat colleagues are trying to cut out the bulk of seniors altogether by covering only those with low incomes and extremely high drug costs.

This proposal is the same as the first two from Senator GRAHAM, except that it eliminates the prescription drug benefit for the 75 percent of Medicare beneficiaries with average incomes who will have spending less than \$4,000 in 2005.

This means that the average senior, who will spend \$3,059 on prescription drugs in 2005, according to CBO, gets nothing, no coverage at all.

That's quite a coverage gap. Or, to use a phrase that's become commonplace around here, that's quite a "donut." In fact, that lack of coverage—from \$0 to \$4,000 for most beneficiaries—is the biggest "donut" of them all.

I find this last fact especially ironic since it was these very same Democrats who last week said they wanted a comprehensive, universal prescription drug benefit in Medicare without any coverage gaps.

Besides having the biggest gap of them all, today's plan from Senator GRAHAM will still cost the taxpayers more than \$400 billion, even though it

provides no basic coverage at all for the average senior.

And the latest try from Senator GRAHAM still requires the government to decide which medicines to make available to the few seniors who qualify for coverage.

It is often said that the third try's a charm. I'm sorry to say that in this case, it isn't. It isn't even close.

Now, you might wonder whether there is another alternative that can get affordable coverage to all seniors, regardless of income.

I am happy to report that there is.

For \$30 billion less than the latest plan from Senator GRAHAM, it is possible to have a far better drug benefit that helps all seniors based on the tripartisan approach.

The tripartisan proposal costs only \$370 billion, including improvements to Medicare besides a meaningful drug benefit.

The tripartisan proposal lowers prices for all drug purchases due to negotiated discounts, and provides 50% coinsurance after a \$250 deductible, up to \$3,450 in drug spending.

It also provides catastrophic protection above \$3,700 in spending—better protection than in the more expensive Democrat plan before us today. All this is possible while spending billions less.

The tripartisan proposal also strengthens and improves Medicare by adding a voluntary, enhanced fee-for-service option. The new option provides protection against serious illness costs—something missing from Medicare today.

The new option also provides better protection against hospitalization costs and free preventive benefits. And seniors who want to keep the same basic Medicare they have today can do so if they wish. Everyone has access to affordable prescription drug coverage.

The bottom line is, the tripartisan proposal, at an official cost of \$370 billion, provides more generous prescription drug coverage for all seniors at a lower cost to taxpayers than the current Democrat plan, which leaves half of seniors with nothing at all at a cost of \$400 billion.

I will close by saying against that none of these attempts would have been necessary, had the Finance Committee been given the right to work its bipartisan will on a prescription drug proposal of its own.

If the committee process had been followed, we could have built bipartisan consensus and presented the Senate with a compromise proposal that could get 60 votes.

Instead, Senator GRAHAM, along with some of the Democrat caucus, has come to the floor time and time again this month with partisan proposals that get worse by the minute and that stand no chance of attracting bipartisan support.

In that regard, today's proposal is not different from the others. It's another partisan poison pill.

This pill, however, is more dangerous than those before it. It leaves most of

our seniors out in the cold, does nothing to contain increasing drug costs, and carries an all too expensive pricetag. I urge my colleagues to reject it.

I yield the floor.

The ACTING PRESIDENT pro tempore. The Senator from New Mexico.

#### UNITED NATIONS POPULATION FUND

Mr. BINGAMAN. Mr. President, on June 25, a little over a month ago, I spoke on the Senate floor about the issue of the United Nations Population Fund. At that time, I called on the President to release the funding for this organization. This is funding we had appropriated in the Congress last December.

I was extremely disappointed to learn that the Bush administration has now decided to eliminate the funding for the U.N. Population Fund. Once again, the administration has chosen to approach an issue unilaterally instead of to cooperate internationally with our allies. Once again, the administration has chosen domestic politics over the health and safety of women around the world.

The administration's decision is contrary to the finding of the administration's own expert panel. The administration did set up a panel and asked them to look into the issue to determine whether or not there was a problem that should prevent them from making this funding available.

That panel determined not only that the UNFPA, the United Nations Population Fund, does not condone or support in any way the violations of human rights or internationally agreed upon standards for family planning, it further found that the Fund is a force for progress, and that is a sentiment with which Secretary Powell himself publicly and wholeheartedly agreed when the panel came out with their announcement.

The United Nations Population Fund works in over 150 countries. They help to give women around the world access to reproductive health care and family planning services, as well as services to ensure safe pregnancy and delivery.

The U.N. Population Fund has been working in China and around the world to encourage nations to expand the availability of voluntary family planning information and services so that people everywhere have the right to decide freely and responsibly the number and the spacing of their children. The Fund is also a leader in the global effort to prevent the spread of HIV/AIDS.

From everything I have been able to read, it is clear that the U.N. Population Fund does not perform or support performing abortions in any way. Anyone who says that Fund does support that activity just has not looked into the issue as this expert panel has.

The U.N. Population Fund is a United Nations organization governed by the governments that make up the United

Nations. Many of these governments fundamentally oppose abortion, and they would never let the United Nations Population Fund be involved in supplying abortions. The UNFPA is simply a tool of the member nations that is designed to implement their will, and that will is to help the most desperate women and their families in some of the poorest countries in the world who are suffering every day in very terrible ways.

The \$34 million we are discussing that has been denied by the administration to be used as the Congress intended would directly contribute to effective modern contraception for over 1 million couples. This \$34 million would prevent over 100,000 unwanted pregnancies. It would prevent a quarter of a million unwanted births. It would help women avoid over 200,000 abortions and prevent thousands of maternal and child deaths in the same effort.

Further, the Fund's policies of constructive engagement in China have been shown to result in much-needed progress and a reduction in some of the worst violations of human rights in that country.

The administration's decision is another affront to the world's women. It follows on the administration's decision to impose the global gag rule on family planning providers, and also it follows upon the administration's unwillingness to champion the international treaty on the rights of women.

I hope that the Senate, when we consider the foreign operations appropriations bill—and I assume we will either this week or shortly, when we return in September—will have broad support for the \$50 million that hopefully will be included for the United Nations Population Fund in this upcoming fiscal year.

Mr. REID. Mr. President, will the Senator yield for a question?

Mr. BINGAMAN. I am glad to yield to my colleague.

Mr. REID. Senator BYRD has given a number of speeches in recent days on and off the floor about separation of powers; that we, the legislative branch, do something and the power is taken away by the executive branch of the Government. This is a perfect example; would the Senator agree?

Mr. BINGAMAN. Mr. President, I do agree this is a perfect example. This is a case where the Congress made a very clear decision to provide assistance to this United Nations Population Fund. It did give the administration discretion to look into the question of whether there were human rights problems, and the administration looked into it, and its own panel determined there were not. Yet in spite of that, the administration made a decision to withhold the funds. So I agree entirely with the statement of the Senator from Nevada that this is a case where the administration is acting contrary to the clear intent of the Congress.

Mr. REID. I so appreciate the statement of the Senator from New Mexico

for a number of reasons, not the least of which is that it seems those who oppose abortion the most are those who fight against us for these moneys; is that not a fair statement?

Mr. BINGAMAN. Mr. President, again, let me respond by saying that is my clear impression as well. The estimates which I have given in my floor statement are that there will be in the range of 200,000 abortions performed as a result of our Government, our administration, withholding this money.

I think those who are opposed to abortion are finding an odd way to pursue that goal by trying to keep these funds from being expended.

Mr. REID. Mr. President, I ask my friend, it is also true, is it not, that the 200,000 abortions are for a year's period of time? Over the years when we have been prevented, as we have on other occasions by Republican administrations, from letting this money go forward, hundreds of thousands of abortions each year are performed that would not have to be performed but for our not having this money; is that right?

Mr. BINGAMAN. Mr. President, in response, I say that is right. Obviously, the work of an organization such as this United Nations Population Fund can only be effective if they can put in place programs they can then sustain over a period of years and actually do some educational efforts in these underdeveloped countries. That is what is so unfortunate about the decision of the administration to withhold funds this year. We will have a chance, once again, to appropriate additional funds for the new fiscal year, but this year has been lost, and unfortunately there are other years, previous years, where our opportunity to help solve these problems has been squandered.

Mr. REID. I also ask my friend: It is true, is it not, that these programs are voluntary in nature, educational in nature, people are learning how to prevent pregnancies? Is that one of the programs that is involved?

Mr. BINGAMAN. In response to my friend's question, that is clearly the main thrust of this funding. It is to provide much-needed information to desperately poor women in these countries so they can make voluntary decisions about what they want to do, how many children they want to have, and what their options are as they move ahead. These are all voluntary programs by definition.

Mr. REID. Would my friend also acknowledge that these programs involve in various places well-baby programs to teach women how to take care of babies, and also prenatal care, which is such an important part, to countries outside the United States where these monies could go? Is that true?

Mr. BINGAMAN. Again, let me respond by saying that is very true. The thrust of these efforts is to reduce the incidents of mothers dying while giving birth, reduce the incidents of child deaths, infant deaths. Clearly, that is the main thrust of what we are trying to accomplish with these funds.

Mr. REID. Finally, I ask my friend, so I understand the numbers, as a result of this political ideology, just for this year alone, there are going to be 500,000 unwanted pregnancies; there will be 250,000 unwanted births, for lack of a better way to describe it, and some 200,000 abortions; is that a fair summary of the numbers?

Mr. BINGAMAN. In response, those are the right numbers. I will go through them once more. The estimate we have is that this \$34 million the Congress appropriated last December, it was intended to provide effective, modern contraception for over a million couples to prevent over 500,000 unwanted pregnancies, to prevent a quarter of a million unwanted births and to help women avoid over 200,000 abortions. So that is what we estimate that funding would be able to accomplish. Now, obviously, none of that will be accomplished during this fiscal year.

Mr. REID. I said I had one last question, and this will be the last question: One of the programs involved, by virtue of what they are doing, would also prevent the spread of HIV; is that true?

Mr. BINGAMAN. In response to my friend from Nevada, that is the major thrust of this effort. As good information is given to parents, to mothers, about these issues, good education and information can also be provided about how to prevent the spread of HIV/AIDS, which is an enormous problem, a terrible tragedy afflicting many of the underdeveloped countries in the world.

Mr. REID. Which is costing American taxpayers money; is that also true?

Mr. BINGAMAN. That is exactly right. We are spending a very substantial amount in trying to deal with the problem of HIV/AIDS in the world. We are being called upon by many of the world's leaders to spend substantially more, and, frankly, I think the drumbeat for us to spend more and more to prevent the spread of HIV/AIDS will continue to grow.

The ACTING PRESIDENT pro tempore. The Senator from Nevada.

Mr. REID. I appreciate very much the statement of the Senator from New Mexico. He is right on point with the critical issue facing the world, and it is a relatively small amount of money we are talking about with all the other monies being spent. This is one that will bring back dividends to our country. And even if it did not—which it will—it is the right thing to do.

As I have said, for political ideology, for the people who cry out against abortion, they are the ones who are opposing what we are trying to do to prevent abortions. This is hard for me to comprehend. It is wrong, and I hope people in the administration will weigh in.

I was very disappointed in Secretary of State Powell for making this announcement when in the past he had said what a great program this was we had going, and then, because of others, I guess, who have more power than he, he came out and gave this wishy-washy

statement about this program money being cut. I do not think his heart was in it, and I am certain his head was not, but I guess there are certain things one has to do. I hope he will not be doing other things like this that appear on the surface so wrong and something he apparently disagrees with so vehemently.

Mr. President, I ask unanimous consent that during the call of the quorum, which I would suggest, the time be charged equally against both sides.

The ACTING PRESIDENT pro tempore. Without objection, it is so ordered.

Mr. REID. I suggest the absence of a quorum.

The ACTING PRESIDENT pro tempore. The clerk will call the roll.

The assistant legislative clerk proceeded to call the roll.

Mr. THOMAS. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The ACTING PRESIDENT pro tempore. Without objection, it is so ordered.

#### MEDICAL MALPRACTICE

Mr. THOMAS. Mr. President, I will visit for a few minutes about medical malpractice, which we will deal with tomorrow. Part of the bill originally had to do with pharmaceuticals. We have had a hard time focusing on pharmaceuticals. The amendment I will discuss expands health care access and has to do with the additional cost brought about by the difficulty arising with lawsuits and medical liability. We need some reform in this area.

In my State of Wyoming, the Wyoming Medical Society has been very concerned. Insurers have been pulling out of the markets or increasing premiums that are above affordable levels. It is a substantial problem. The crisis is now in Casper, WY. Of course, it is all over the country as well. We are beginning to lose some of the practitioners. That is difficult, particularly in an underserved area.

I rise today to support the McConnell amendment on medical malpractice tort reform. The Senate passed this exact language in 1995. There is little reason we should not pass it again. Physicians alone spent \$6.3 billion in malpractice insurance premiums last year. This does not include what other providers such as hospitals have paid. This amendment is a good step in the right direction to reduce or limit the cost of health care to all persons.

The McConnell amendment does a number of things, all of which are very important and necessary. It limits punitive damages to two times the sum of compensatory damages. The amendment only allows punitive damages in cases where the award has been by clear and convincing evidence. It also places limits on attorney's fees, limiting lawyers to collecting a third of the first \$150,000 of an award and 25 per-

cent of the award for amounts above \$150,000. It requires lawsuits be filed within 2 years of the claimant's discovery of the injury. It encourages States to develop alternative dispute resolution mechanisms to help resolve issues before the court.

It seems to me it is a step in the right direction in doing something about these costs. Some of the premiums that physicians are required to pay to practice are amazing. The result is many retreat from practice are particularly those in Medicare where relatively low fees are being paid.

Median malpractice awards increased by 43 percent in 2002 to \$1 million; 52 percent of all jury awards are now over \$1 million. These excessive awards only contribute to the overall costs of health care for all Americans. Since awards drive up malpractice premiums and physicians must pass that on to their consumers, health insurance premiums for everyone continue to go up.

Many Americans are not now able to afford health insurance. They are currently 40 million uninsured Americans.

Recent reports show that medical malpractice is responsible for 7 percent or \$5 billion of the overall increases in health care costs. Last year, one of the largest physician insurers in the Nation stopped its medical malpractice business. As a direct result, some doctors and hospitals see their premiums rising 20 to 100 percent. Some specialists are paying over \$100,000 a year in premiums. Obstetrics is a particular problem. Hospitals in two rural counties in West Virginia have stopped delivering babies; half of 93 obstetricians in Clark County no longer accept new patients. One Nevada obstetrician closed her 10-year practice after her malpractice premiums went from \$37,000 to \$150,000. All of this, of course, must come from the patients.

It is clear something needs to be done to address this growing crisis. According to the American Medical Association, 12 States are in crisis now; 30 are showing signs of being in crisis; 8 are currently OK.

I hope as we talk about this tomorrow, we can do some things that start us moving in the right direction. The cost of health care is certainly an important issue to all of us. We have to deal with it in pharmaceutical costs. We have sought to deal with it by getting physicians into underserved areas by various means. But one of the ways that is important and has changed is the matter of the cost of medical malpractice tort reform. I hope we can deal with it tomorrow.

I yield the floor.

The ACTING President pro tempore. The Senator from Pennsylvania.

#### THE MINERS AND SOMERSET COUNTY

Mr. SPECTER. Mr. President, I have sought recognition to speak about the gallant men, nine miners from Somerset County in my State of Pennsyl-

vania, who went through a most extraordinary ordeal—77 hours trapped in a mine. The eyes and ears of the world were on Somerset County, people wondering if it was possible for men in an underground mine shaft, immersed in water reportedly 4 feet to 5 feet high, no food, no communication with the outside world—people wondered whether those men could survive. Almost in a miraculous way, finally, through the extraordinary efforts of Federal, State, and local rescuers, those nine men were rescued at 2:44 a.m. on Sunday, just yesterday. Their ordeal started on Wednesday, July 24, at 9 p.m., and ended on Sunday morning, July 28 at 2:44 a.m.

People are in amazement around the world, at their successful rescues. It is very unusual, very odd to say the least, that a small county in western Pennsylvania, more than 50 miles southeast of Pittsburgh, would be the focus of so much international attention.

Last September 11, as we all know, a flight crashed into Somerset, one of the four hijacked by terrorists on September 11, the flight widely believed to be headed to this building, the Capitol of the United States. No one can be sure—some have speculated it might have been headed to the White House—but the speculation was that the plane which crashed into the Pentagon was headed to the White House.

In any event, Somerset County was the site of an international tragedy less than a year ago. It is more than lightning, but to have lightning, so to speak, strike twice in such a small county in western Pennsylvania is unusual. But this time, instead of tragedy, instead of the loss of lives, these men were rescued.

In an era where there is so much bad news around the world, so much difficulty with terrorism around the world, the problems with the Palestinian terrorists against Israel, the grave difficulties between India and Pakistan over Kashmir, the differences and fighting between the North Koreans and South Koreans and all the problems of Africa—and that litany could be the subject of a lengthy conversation—to find a bright spot, find a success, find a rescue, is certainly more than a breath of fresh air for the entire world but especially, of course, for the miners who were involved: Mr. Randy Fogle, Mr. Harry Blaine Mayhugh, Mr. Thomas Foy, Mr. John Unger, Mr. John Phillippi, Mr. Ronald Hileman, Mr. Dennis Hall, Jr., Mr. Robert Pugh, and Mr. Mark Popernack.

Representing Pennsylvania, as I have for some 22 years now, I have obviously been intimately connected with the issue of the coal miners, with some 30 billion tons of bituminous in western Pennsylvania and 7 billion tons of anthracite in northeastern Pennsylvania and the mining industries being struggling industries, this industry has taken up a great deal of time—not only of mine, but of the entire Pennsylvania delegation, really beyond the Pennsylvania delegation.